

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ADRIAN BROWN,  
Petitioner,  
v.  
RICHARD MORGAN,  
Respondent.

Case No. C05-5293FDB

ORDER CHANGING CASE  
CAPTION AND DIRECTING  
SERVICE AND RETURN,  
§ 2254 PETITION

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254. This case has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrates' Rules MJR 3 and MJR 4.

When the petition was filed the court noted the petition did not name a proper respondent and entered an order to amend. (Dkt. # 7). Petitioner replied by letter indicating the Superintendent of the Washington State Penitentiary is Richard Morgan. (Dkt. # 8).

The clerk is directed to change the case caption in this action to reflect Richard Morgan is the proper respondent. An amended petition is not needed.

(1). The clerk shall arrange for service by certified mail upon respondent, a copy of the petition, of all documents in support thereof, and of this Order, a copy of the Notice of Initial Assignment and Consent to Proceed before a United States Magistrate Judge. All costs of service

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1 shall be advanced by the United States. The Clerk shall assemble the necessary documents to effect  
2 service. The Clerk shall send petitioner a copy of this Order, the General Order, a copy of the  
3 Notice of Initial Assignment and Consent to Proceed before a United States Magistrate Judge. The  
4 clerk will also send a courtesy copy of the petition to the Washington State Attorney General's Office  
5 Criminal Justice Division.

6 (2) Within forty-five (45) days after such service, respondent shall file and serve an  
7 answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District  
8 Courts. As part of such answer, respondents should state whether petitioner has exhausted available  
9 state remedies, whether an evidentiary hearing is necessary, and whether there is any issue of abuse  
10 of delay under Rule 9. Respondent shall not file a dispositive motion in place of an answer without  
11 first showing cause as to why an answer is inadequate. Respondent shall file the answer with the  
12 Clerk of Court and serve a copy of the answer upon petitioner.

13 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon  
14 receipt of the Answer the Clerk will note the matter for consideration on the fourth Friday after the  
15 answer is filed, petitioner may file and serve a response not later than on the Monday immediately  
16 preceding the Friday appointed for consideration of the matter, and respondent may file and serve a  
17 reply brief not later than on the Thursday immediately preceding the Friday designated for  
18 consideration of the matter.

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21 DATED this 10<sup>th</sup> day of June, 2005.

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23 Karen L. Strombom  
24 United States Magistrate Judge  
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